

HILTON LAWRENCE BROWN, No. C-09-1750 TEH (PR)
Plaintiff,
v.
INTERNAL REVENUE SERVICE, et. al., ORDER OF DISMISSAL
Defendant(s).

The Prison Litigation Reform Act of 1995 ("PLRA"), which was enacted, and became effective, on April 26, 1996, provides that a prisoner may not bring a civil action or appeal a civil judgment under 28 U.S.C. section 1915 "if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was

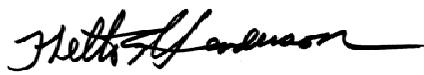
1 dismissed on the grounds that it is frivolous, malicious, or fails
2 to state a claim upon which relief may be granted, unless the
3 prisoner is under imminent danger of serious physical injury." 28
4 U.S.C. § 1915(g). "Section 1915(g)'s cap on prior dismissed claims
5 applies to claims dismissed both before and after the [PLRA's]
6 effective date." Tierney v. Kupers, 128 F.3d 1310, 1312 (9th Cir.
7 1997).

8 Plaintiff has had three or more prior prisoner actions
9 dismissed by this court on the grounds that they are frivolous,
10 malicious, or fail to state a claim upon which relief may be
11 granted. See, e.g., Brown v. Pelican Bay Institution, No. C 99-1840
12 TEH; Brown v. Cambra, No. C 96-429 DLJ; Brown v. Gomez, No. C 96-728
13 DLJ; Brown v. Marshall, No. C 94-3942 DLJ.

14 Because Plaintiff has had these three or more prior
15 dismissals and he is not under imminent danger of serious physical
16 injury, leave to proceed in forma pauperis is DENIED. This action
17 is DISMISSED without prejudice to Plaintiff filing a new Complaint
18 accompanied by the full filing fee. The Clerk is directed to
19 terminate any pending motions as moot and close the file.

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21 IT IS SO ORDERED.

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23 DATED 06/08/09



THELTON E. HENDERSON
United States District Judge

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